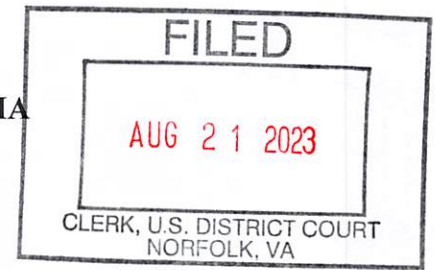


**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**



DEANDRE JOHNSON, #1999377,

Petitioner,

v.

Case No. 2:21cv511

**HAROLD W. CLARKE, Director,
Virginia Department of Corrections,**

Respondent.

FINAL ORDER

Before the Court is an Amended Petition for a Writ of *Habeas Corpus* filed pursuant to 28 U.S.C. § 2254, ECF No. 4, and the Respondent's Motion to Dismiss, ECF No. 16. In his Amended Petition, the *pro se* Petitioner alleges violation of federal rights pertaining to his convictions in the Stafford County Circuit Court of seven counts of Threatening by Letter or Communication, two counts of Attempted Threat by Letter or Communication, and four counts of Violation of a Protection Order, third or subsequent offense. As a result of these convictions, Petitioner was sentenced to serve four years and eighteen months in prison.

The Amended Petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed July 6, 2023, recommends dismissal of the Amended Petition with prejudice, ECF No. 22. On July 25, 2023, Petitioner untimely filed objections to the Report and Recommendation. ECF No. 23. Respondent has not responded to Petitioner's objections and the time to do so has expired.

The Court, having reviewed the record and examined the objections filed by Petitioner to

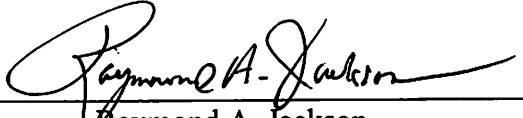
the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed July 6, 2023. It is, therefore, **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 16, is **GRANTED**, and that the Amended Petition, ECF No. 4, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the Respondent.

Finding that the procedural basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so **within thirty (30) days** from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall forward a copy of this Order to Petitioner and to counsel of record for the Respondent.

It is so **ORDERED**.



Raymond A. Jackson
United States District Judge

Norfolk, Virginia
August 18, 2023